

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

TRAFFIC INFORMATION, LLC

*Plaintiff,*

vs.

COMMTIVA TECHNOLOGY CORP., DELL  
INC., PERFORMANCE AUDIO MOBILE  
ENTERTAINMENT, L.L.C., and PIONEER  
ELECTRONICS (USA), INC.,

*Defendants.*

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Case No.

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Traffic Information, LLC (“Traffic”) brings this action against defendants Commtiva Technology Corp. (“Commtiva”), Dell, Inc. (“Dell”), Performance Audio Mobile Entertainment, L.L.C. (“Performance Audio”), and Pioneer Electronics, Inc. (“Pioneer”), and alleges:

**THE PARTIES**

1. Traffic is a limited liability company organized and existing under the laws of the State of Texas.

2. On information and belief, Commtiva is a corporation organized and existing under the laws of Illinois, with a principal place of business at 1880 West Winchester Road, Suite 103, Libertyville, Illinois 60048, has designated its registered agent for purposes of service of process as C T Corporation System, 208 South La Salle Street, Suite 814, Chicago, Illinois 60604-1101, and is doing business in this judicial district.

3. On information and belief, Dell is a corporation organized and existing under the laws of Delaware, with a principal place of business at 1 Dell Way, Round Rock, Texas 78682-7000, has designated its registered agent for purposes of service of process in Texas as Corporation Service

Company, 211 East 7th Street, Suite 620, Austin, Texas 78701-3218, and is doing business in this judicial district.

4. On information and belief, Performance Audio is a limited liability company organized and existing under the laws of Texas, has a principal place of business at 3939 South Broadway Avenue, Tyler, Texas 75701, has designated its registered agent for purposes of service of process as Monty Jones, 3939 South Broadway Avenue, Tyler, Texas 75701, and is doing business in this judicial district.

5. On information and belief, Pioneer is a corporation organized and existing under the laws of Delaware, has a principal place of business at 2265 East 220th Street, Long Beach, California, 90810, has designated its registered agent for purposes of service of process as Gregory R. Pierson, 2265 East 220th Street, Long Beach, California 90810, and is doing business in this judicial district.

#### **JURISDICTION AND VENUE**

6. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code.

7. Subject-matter jurisdiction over Traffic's claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

8. On information and belief, each defendant has solicited business in the State of Texas, transacted business within the State of Texas and attempted to derive financial benefit from residents of the State of Texas, including benefits directly related to the instant patent infringement cause of action set forth herein.

9. On information and belief, each defendant has placed its allegedly infringing products and services into the stream of commerce throughout the United States with the expectation that they will be used by consumers in this judicial district.

10. Each defendant is subject to personal jurisdiction in Texas and this judicial district, and is doing business in this judicial district.

11. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

**COUNT I - INFRINGEMENT OF THE '606 PATENT**

12. Traffic realleges and incorporates by reference the allegations in paragraphs 1-11.

13. On August 31, 2004, U.S. Patent No. 6,785,606 ("the '606 patent"), entitled "System For Providing Traffic Information," a copy of which is attached hereto as Exhibit A, was duly and legally issued. Traffic is the owner by assignment of all right, title and interest in and to the '606 patent, including the right to sue for and recover all past, present and future damages for infringement of the '606 patent.

14. Each defendant, alone and in conjunction with others, has in the past and continues to infringe, contribute to infringement, and/or induce infringement of the '606 patent by making, using, selling, offering to sell and/or importing, and/or causing others to use, traffic information systems and products and services that alone or in combination with other devices are covered by at least one claim of the '606 patent, and are liable for infringement of the '606 patent pursuant to 35 U.S.C. § 271.

15. Traffic previously notified Defendants Commtiva, Dell, and Pioneer of the '606 patent. Despite such notification, Defendants Commtiva, Dell, and Pioneer have continued their infringement of the '606 patent. On information and belief, Defendants Commtiva's, Dell's, and Pioneer's infringement of the '606 patent have therefore been with notice and knowledge of the patent and have been willful and deliberate.

16. Each defendant's acts of infringement have caused damage to Traffic, and Traffic is entitled to recover from each defendant the damages sustained by Traffic as a result of each defendant's wrongful acts in an amount subject to proof at trial.

17. As a consequence of the infringement complained of herein, Traffic has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless each defendant is enjoined by this Court from committing further acts of infringement.

## **COUNT II - INFRINGEMENT OF THE '862 PATENT**

18. Traffic realleges and incorporates by reference the allegations in paragraphs 1-17.

19. On October 15, 2002, U.S. Patent No. 6,466,862 ("the '862 patent"), entitled "System For Providing Traffic Information," a copy of which is attached hereto as Exhibit B, was duly and legally issued. Traffic is the owner by assignment of all right, title and interest in and to the '862 patent, including the right to sue for and recover all past, present and future damages for infringement of the '862 patent.

20. Defendants Commtiva and Dell, alone and in conjunction with others, have in the past and continue to infringe, contribute to infringement, and/or induce infringement of the '862 patent by making, using, selling, offering to sell and/or importing, and/or causing others to use, traffic information systems and products and services that alone or in combination with other devices are covered by at least one claim of the '862 patent, and are liable for infringement of the '862 patent pursuant to 35 U.S.C. § 271.

21. Traffic previously notified Defendants Commtiva and Dell of the '862 patent. Despite such notification, Defendants Commtiva and Dell have continued their infringement of the '862

patent. On information and belief, Defendants Commtiva's and Dell's infringement of the '862 patent have therefore been with notice and knowledge of the patent and have been willful and deliberate.

**22.** Defendants Commtiva's and Dell's acts of infringement have caused damage to Traffic, and Traffic is entitled to recover from each defendant the damages sustained by Traffic as a result of each defendant's wrongful acts in an amount subject to proof at trial.

**23.** As a consequence of the infringement complained of herein, Traffic has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless each defendant is enjoined by this Court from committing further acts of infringement.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Traffic prays for entry of judgment that:

- A.** Each defendant has infringed the '606 patent;
- B.** Defendants Commtiva and Dell have each infringed the '862 patent;
- C.** Each defendant account for and pay to Traffic all damages caused by its individual and/or joint infringement of the '606 and/or '862 patents as complained of herein in accordance with 35 U.S.C. § 284;
- D.** The Court increase the amount of damages with respect to Defendants Commtiva's, Dell's, and Pioneer's infringement, contributory infringement, and/or induced infringement to three times the amount found or assessed by the Court because of the willful and deliberate nature of the infringement, in accordance with 35 U.S.C. § 284;
- E.** Traffic be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining each defendant, its officers, agents, servants, employees and those persons in active concert or participation with them from further acts of patent infringement;

- F.** Traffic be granted pre-judgment and post-judgment interest on the damages caused to it by reason of each defendant's patent infringement complained of herein;
- G.** Traffic be granted its reasonable attorneys' fees;
- H.** Costs be awarded to Traffic; and,
- I.** Traffic be granted such other and further relief as the Court may deem just and proper under the circumstances.

**DEMAND FOR JURY TRIAL**

Traffic demands trial by jury on all claims and issues so triable.

Respectfully submitted,

Dated: December 1, 2010

By: /s/ Elizabeth L. DeRieux

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